

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Thursday, June 9, 2004, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Eugene Carroll, Gerry Krieser, Roger Larson, Dan Marvin, Lynn Sunderman, Mary Bills-Strand and Tommy Taylor (Melinda Pearson absent); Marvin Krout, Ray Hill, Mike DeKalb, Brian Will, Becky Horner, Greg Czaplewski, Derek Miller, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Mary Bills-Strand called the meeting to order and requested a motion approving the minutes for the regular meeting held May 26, 2004. Motion for approval made by Marvin, seconded by Krieser and carried 8-0: Carlson, Carroll, Krieser, Larson, Marvin, Sunderman, Bills-Strand and Taylor voting 'yes'; Pearson absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

June 9, 2004

Members present: Carlson, Carroll, Krieser, Larson, Marvin, Sunderman, Bills-Strand and Taylor; Pearson absent.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 04036; COUNTYSPECIAL PERMIT NO. 25B; SPECIAL PERMIT NO. 04028; SPECIAL PERMIT NO. 04029; and STREET & ALLEY VACATION NO. 04007.**

Item No. 1.4, Special Permit No. 04029, was removed from the Consent Agenda and scheduled for separate public hearing.

Taylor moved to approve the remaining Consent Agenda, seconded by Larson and carried 8-0: Carlson, Carroll, Krieser, Larson, Marvin, Sunderman, Bills-Strand and Taylor voting 'yes'; Pearson absent.

This is final action on Special Permit No. 04028, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

SPECIAL PERMIT NO. 04029
TO OPERATE A SOIL EXCAVATION
SITE ON PROPERTY GENERALLY
LOCATED AT S. 88TH STREET AND "A" STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 9, 2004

Members present: Sunderman, Carlson, Larson, Krieser, Taylor, Marvin, Carroll and Bills-Strand; Pearson absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

This application was removed from the Consent Agenda and had separate public hearing due to correspondence expressing concerns about erosion control, intended disposal of material, etc.

Proponents

1. Mike Rierden appeared on behalf of the **Slosburg Company**. The applicant for the excavation site is actually Herbert Bros., but the project to which the dirt is being moved was approved last fall at the corner of 84th & Van Dorn Street, including a multi-use facility where there will be apartments and some retail facilities. At the time that project was approved, the neighbors ended up supporting the proposal. This excavation permit is all part of that project. There is a significant amount of fill needed on this corner and that is the reason for the request for this special permit. He urged the Commission to support this application because it is part of the previously approved project.

2. Jerry Kavan, the Slosburg Company, clarified that the project the dirt is going to is 84th & Van Dorn. They did talk with Public Works about hauling the dirt from this location at 88th & "A" Streets. He submitted exhibits showing the borrow site at 88th & "A". The dirt is being hauled to 84th & Van Dorn and deposited on the site. "A" Street is a county highway and the Slosburgs have been in communication with the county and have a written agreement that says that if they damage "A" Street, Slosburg will make the repairs. The exhibit also included a letter sent to the nearby neighbors of the borrow site, explaining that this permit is not to develop the site but to obtain dirt for another development; the property has been used as farm land; the dirt being removed will be minimum of 160' away from any of the homes along Smokey Hill. Upon completion sometime in August, they will restore the contours of the

borrow site so that it can be farmed again. The borrow site is owned by Herbert Brothers. Permits have been received from the NRD and the NDEQ for the borrow operations. The erosion control fencing is in place with the exception of a small section along "A" Street, which will be completed immediately before any of the dirt is hauled. Kidwell owns the pond across "A" Street at about 89th. The silt fence will be installed to keep the flow clean that goes through the culvert to his pond. The exhibit included a copy of the agreement with Herbert Bros. which requires re-contouring the site for farming and relaying all of the topsoil. Pages 5 and 6 of the exhibits are excerpts of the contract with the grader, who is responsible for returning the borrow operation to farmland, to keep the streets clean and to keep the blowing soil down and maintain the erosion control. Mr. Kavan stated that he has communicated with both of the individuals who expressed concerns.

Kavan also pointed out that it has been determined that there will be no impact to the groundwater as a result of this operation.

Kavan noted that the conditions of approval require a meeting with the Health Department to resolve how to deal with blowing soil and fuel spills on the site. Kavan agreed with all conditions of approval. They intend to carry out the grading operations as quickly as possible and be completed by August.

Taylor confirmed with the applicant that they are making sure that none of the topsoil is being removed, but set aside to be redistributed on the site. Kavan concurred.

Carroll inquired about the timeline. Kavan referred to four weeks, yet the agreement talks about six months. Kavan believes the city had used the six months in the agreement to allow flexibility due to weather conditions and time to get the permit approved. Four weeks is right if we can get out there and be hauling right away.

There was no testimony in opposition.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

June 9, 2004

Taylor moved to approve the staff recommendation of conditional approval, seconded by Larson and carried 8-0: Sunderman, Carlson, Larson, Krieser, Taylor, Marvin, Carroll and Bills-Strand voting 'yes'; Pearson absent.

This is final action, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

CHANGE OF ZONE NO. 04038
FROM R-4 RESIDENTIAL TO O-3 OFFICE PARK,
ON PROPERTY GENERALLY LOCATED
AT S. 27TH STREET AND PINE LAKE ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 9, 2004

Members present: Sunderman, Carlson, Larson, Krieser, Taylor, Marvin, Carroll and Bills-Strand; Pearson absent.

Staff recommendation: Denial.

Ex Parte Communications: None.

Proponents

1. **Peter Katt** appeared on behalf of the applicant and withdrew the application.

SPECIAL PERMIT NO. 04027
FOR AN EARLY CHILDHOOD CARE FACILITY
ON PROPERTY LOCATED AT 3336 N. 10TH STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 9, 2004

Members present: Sunderman, Carlson, Larson, Krieser, Taylor, Marvin, Carroll and Bills-Strand; Pearson absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Proponents

1. **Becky Ryan**, the applicant, stated that she is applying to do an in-home day care three houses away from her residence.

Marvin inquired as to whether it is an existing house. Ryan stated that the house was her uncle's home and he is renting it to her for the purpose of an in-home day care.

There was no testimony in opposition.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

June 9, 2004

Taylor moved to approve the staff recommendation of conditional approval, seconded by Carlson and carried 8-0: Sunderman, Carlson, Larson, Krieser, Taylor, Marvin, Carroll and Bills-Strand voting 'yes'; Pearson absent.

This is final action, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

STREET & ALLEY VACATION NO. 04008
TO VACATE N. 21ST STREET FROM THE
SOUTH RIGHT-OF-WAY LINE OF Y STREET
TO THE NORTH BOUNDARY LINE OF THE
ABANDONED RAILROAD RIGHT-OF-WAY.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 9, 2004

Members present: Sunderman, Carlson, Larson, Krieser, Taylor, Marvin, Carroll and Bills-Strand; Pearson absent.

Staff recommendation: Denial.

Ex Parte Communications: None.

Greg Czaplewski of Planning staff submitted a letter in opposition from Lincoln Lumber Company, which is one of the abutting property owners.

Proponents

1. Mike Rierden appeared on behalf of the applicant, **B & J Partnership**. Some time ago, B&J acquired the area on both sides of the requested vacation. Rierden noted that the staff report recommends denial; however, it indicates that if the ownership issue is satisfied, the staff would change their recommendation to approval. Rierden suggested that the entire staff report basically supports the vacation request. There is a statement that this portion of N. 21st is not needed for traffic purposes and it dead-ends into the Cushman facility which is now owned by UNL. B&J has agreed to give the University an easement for ingress and egress over this portion of 21st Street.

Due to the letter in opposition from Lincoln Lumber, Rierden has been advised by the staff that they will continue to recommend denial of this street vacation.

Rierden submitted an exhibit which addresses the ownership issue, and he believes that the City Attorney is now comfortable with the ownership issue mentioned in the staff report. The exhibit also shows that this applicant is being brought into a dispute between Lincoln Lumber and the city regarding the bike trail. It is an administrative proceeding before the Surface Transportation Board between the city and Lincoln Lumber. The city's own engineers have shown the ownership pattern of Lincoln Lumber. The issue in the staff report was whether or not 21st Street extended into the railroad right-of-way, and this exhibit indicates that it did not. Throughout the proceedings there has been a long-standing dispute between Lincoln Lumber and the city concerning this bike trail. The city is trying to go forward with eminent domain proceedings to acquire what they need for the bike path. Rierden is convinced that Lincoln

Lumber believes that objecting to this vacation will be part of their opposition to the city and will help his cause in some way. Lincoln Lumber's objection is that Lincoln Lumber will lose access and it will become a hardship; however, Rierden believes there is adequate access elsewhere all along the MoPac trail.

Rierden stated that B&J has also agreed to give Lincoln Lumber, like the University, a perpetual easement so that Lincoln Lumber can continue to use this land just as it does today. Rierden submitted that Lincoln Lumber's objection is without merit.

2. Ken Fougerson, B&J Partnership, stated that the south half of the proposed street vacation will allow access to the east side of the building that is on the west side of 21st Street. The fence will be moved out into the property to the east so that there is adequate turn-around and drive space for deliveries into that building. The north half of the street would remain unchanged. The purpose of this street vacation is to provide a loading area for the building on the west side of N. 21st Street. The tenant in the building will be Valley Vending Service, and it will be operated as a warehouse facility.

3. Linda Cowdin, Property Manager for UNL, spoke in a neutral position. The University suggests that the access easement be granted prior to City Council approval of the street vacation to assure that it does transpire. Without the easement, 21st Street is the University's only legal access to the recently purchased Cushman property at 900 N. 21st. There will be large trucks and tractor trailer deliveries required at that north entrance. There are life safety concerns in that there are two fire hydrants there and the University wants to make sure there is access and maneuverability for the fire trucks into that area. If approved, the conditions require that the street entrance be changed with curb and gutter. If curb and gutter is put in, how does UNL get access back to their building?

There was no testimony in opposition

Staff questions

Carlson wondered whether the deliveries can be done on the public street without vacating it—drive the truck up and unload? Greg Czaplewski of Planning staff believes that would be possible if they would apply for a curb cut for a driveway to the overhead door area. However, he believes the petitioner wants to be able to reorganize the area for use as additional parking stalls. He does believe they could use it as a public street to access the building.

Marvin inquired about Analysis #3 and the confusion between the city and county. Czaplewski advised that the County Assessor records indicate that Lincoln Lumber owns all of the railroad right-of-way. The sectional maps that the city maintains indicate that the part of 21st Street that crosses the railroad right-of-way is still public right-of-way. If it is still right-of-way, then it will be left without access if this street is vacated. The City Law Department and staff are now satisfied that the ownership has been proven to a point that we can move this vacation forward. However, that does not mean that the staff recommendation will be changed to approval. Because of the access issue to both UNL and Lincoln Lumber, the staff

recommendation is going to be denial until the issue has been resolved and Lincoln Lumber and UNL both withdraw their opposition.

Carlson inquired about X Street. Czapslewski clarified that it is not a street. It is railroad right-of-way.

Sunderman inquired about any other use of the railroad right-of-way. Czapslewski suggested that provided it met the zoning requirements, any use in the I-1 district could be allowed. However, he is not sure that in and of itself it would be entirely usable for anything other than unloading and loading, etc.

Bills-Strand inquired whether the staff would be satisfied if the issues with UNL were resolved. Czapslewski stated that the University is generally asking for the easement, which staff has heard that the applicant has agreed to provide. If this vacation were approved by the City Council, the University's concern is that they may not actually get the easement. The staff wants those parties to work that out on their own and the University could withdraw their opposition.

Carroll asked whether it is true that 20th Street has been vacated up to the railroad right-of-way, so that Lincoln Lumber only has access off 21st and 22nd Streets. Czapslewski stated that Lincoln Lumber would now have access off of 21st Street, and should also have access off of 22nd and 23rd Streets. Carroll suggested that they would have 22nd to go all the way west.

Marvin wondered whether the easement issue could be resolved if this were deferred for two weeks. Czapslewski believes the applicant has expressed their willingness to do that and should be able to get that accomplished in two weeks.

Rick Peo of City Law Department offered that until the street is vacated, title remains with the city. Typically, the easement documents are where the city puts restrictions on the sale of the property as opposed to B&J. B&J could enter into an agreement with the UNL to provide the easement once they have title to the property. A condition of the sale could be that the proper agreement be reached with Lincoln Lumber and the University prior to conveyance. Peo suggested that a condition of the sale could be that the city not convey title until such time as those agreements have been reached. This would not require a deferral of the street vacation.

Peo also suggested that the issue of ownership of the right-of-way needs a little bit more investigation because sometimes the city has fee title to the railroad crossing and sometimes only a license from the railroad. Carroll does not believe it is fee title. Peo has not been involved in that litigation but he knows there is an issue as to whether the city has rights to use it as a trail.

Carroll wondered how they are going to get access with curb and gutter. Czaplewski explained that if they did not want to do curb and gutter, they would need to apply for a curbcut for a commercial driveway. Public Works did not give any information as to the cost, but that would be an option to open that back up.

Response by the applicant

With regard to the University, Rierden stated that he has talked with Dick Wood at the University and Mike Tavlin of B&J Partnership, and they have agreed in essence. An easement has been drafted and B&J would offer to have that easement as a condition of the vacation. In addition, B&J would agree to make application for the curbcut at Y Street as a condition of approval. As far as Lincoln Lumber, the proceedings he submitted show that Lincoln Lumber will never agree to anything. The easement was offered to Lincoln Lumber and B&J will give it to them if they will accept it.

As to whether or not the vacation is actually needed, Fougerson stated that with the current street with curbs on both the east and west side, they would be blocking that street part of the time if they just had a permit for loading and unloading. B&J would propose to pave the additional area to allow for through traffic either from the University or from Lincoln Lumber. We do not believe that it would be wise to use a public street for unloading and loading because of the size of the trucks, and it would block the current street.

Carlson inquired whether the applicant anticipates through motions to the south with the additional paving. Does that run into a problem south of the additional paving? Fougerson stated there is a chain link fence on the south side of B&J that infringes on Lincoln Lumber. That will have to be corrected.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

June 9, 2004

Taylor moved to deny, seconded by Carroll.

Taylor thinks that all the parties need to get together so that no one party looks like the bad guy holding this up. We don't want to block access and make it difficult for anyone to do business.

Carroll commented that since there is still a question on the ownership of the railroad public right-of-way next to 21st Street that needs to be clarified, and that Lincoln Lumber needs access to their property (they probably purchased the property because there was street access), he does not see any advantages to vacating the street at this time until all the agreements are worked out.

Larson will vote against denial because he believes the applicant and University are ready to reach agreement, and that Lincoln Lumber is not, primarily because of the issue with the city. He does not see that it would harm Lincoln Lumber at all if they were granted an easement onto their property.

Carlson questions whether we are limiting the public need and facilitating a compelling private need. We are losing some public use and are we really facilitating a better private use? He believes they can create a turnaround to the east.

Rick Peo approached the Commission and suggested that, based upon the testimony today, there is an outstanding question--how does the University cross right-of-way to get to the south? It might be depriving UNL of rights. Maybe the issue of ownership does need some additional research.

Marvin stated that he will support the denial and would also support a deferral. He believes the parties are very close to coming to some sort of agreement.

Motion to deny carried 7-1: Sunderman, Carlson, Krieser, Taylor, Marvin, Carroll and Bills-Strand voting 'yes'; Larson voting 'no'; Pearson absent. This is a recommendation to the City Council.

MISCELLANEOUS NO. 04003
TEXT AMENDMENTS TO THE
DESIGN STANDARDS REGARDING
STANDARD STREET LIGHTING.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 9, 2004

Members present: Sunderman, Carlson, Larson, Krieser, Taylor, Marvin, Carroll and Bills-Strand; Pearson absent.

Staff recommendation: Deferral.

Ex Parte Communications: None.

Derek Miller of Planning staff submitted a request for a four-week continuance instead of two weeks to July 7, 2004.

Carlson moved to defer four weeks, with continued public hearing and administrative action scheduled for July 7, 2004, seconded by Marvin and carried 8-0: Sunderman, Carlson, Larson, Krieser, Taylor, Marvin, Carroll and Bills-Strand voting 'yes'; Pearson absent.

ANNEXATION NO. 04001,
CHANGE OF ZONE NO. 04007,
FROM AG AGRICULTURAL TO R-3 AND R-5 RESIDENTIAL,
and
PRELIMINARY PLAT NO. 04002,
STONE BRIDGE CREEK 1ST ADDITION,
ON PROPERTY GENERALLY LOCATED
AT N. 14TH STREET AND INTERSTATE 80.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 9, 2004

Members present: Sunderman, Carlson, Larson, Krieser, Taylor, Marvin, Carroll and Bills-Strand; Pearson absent.

Staff recommendation: Approval of the annexation and change of zone, and conditional approval of the preliminary plat.

Ex Parte Communications: None.

Becky Horner of Planning staff stated that the Law Department has determined that the preliminary plat should be re-advertised as final action. Therefore, the staff is requesting a two-week delay. She has discussed this with the applicant and they will make their presentation at the next meeting.

Larson moved deferral for two weeks, with continued public hearing and administrative action scheduled for June 23, 2004, seconded by Taylor and carried 8-0: Sunderman, Carlson, Larson, Krieser, Taylor, Marvin, Carroll and Bills-Strand voting 'yes'; Pearson absent.

CHANGE OF ZONE NO. 04017
FROM AGR AGRICULTURAL RESIDENTIAL
TO R-3 RESIDENTIAL, ON PROPERTY
GENERALLY LOCATED AT S. 84TH STREET
AND PINE LAKE ROAD.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 9, 2004

Members present: Sunderman, Carlson, Larson, Krieser, Taylor, Marvin, Carroll and Bills-Strand; Pearson absent.

Staff recommendation: Approval of the change of zone, and conditional approval of the community unit plan and preliminary plat.

Ex Parte Communications: None.

Proponents

1. Peter Katt appeared on behalf of the applicant, and stated that the applicant is in general agreement with the staff recommendation of conditional approval, as revised; however, he did submit proposed amendments:

- Substitute the following language for Condition #1.1.2:

Include a Note that reasonable access to Lot 6 I.T. and Lot 66 I.T. shall be provided at the time of multi-family site plan approval.

The adjoining outlot is a proposed multi-family area and the staff condition of approval requests a public street to provide access. The applicant has no objection to providing access to that property at the time that a specific proposal comes forward in terms of the layout of the multi-family.

- Delete Condition #1.1.6

This is a request by staff to modify the radius and convert the cul-de-sac to a through road. The cul-de-sac shown is in full compliance with all of the standards that the city has with regard to cul-de-sac lengths and every other requirement. The developer would like to develop this as a cul-de-sac as families like to locate on cul-de-sacs so they don't have that through traffic. It is a housing choice that should be available. Katt believes that the developer should have the opportunity to put in this cul-de-sac until the rules are changed.

- Delete Condition #1.1.12

Staff is requiring a pedestrian easement to be located on top of the sanitary sewer easement. Katt suggested that pedestrian easements are problematic in subdivisions. In addition to the fact that the neighbors don't like them once they are in, there is an added \$25,000 cost. This applicant does not believe it is a significant issue and, given the problems and cost factor, the pedestrian easement should not be required.

- Add the following language to Condition #1.1.14:

....except that a left turn pocket shall be permitted from Pine Lake Road onto South 86th Street and a median in Barkley Drive shall be permitted...

(Option 1) ...east of 84th Street with a median opening for So. 85th Terrace and Court.

or
(Option 2) ...east of 85th Terrace and Court.

The Public Works condition is that the median be fully extended and that no left turns be permitted off Pine Lake Road onto 86th Street. The concern of Public Works is that by allowing the left turn, they would not have enough left turn capacity on Pine Lake Road onto 84th Street. The Pine Lake Road design standard has dual lefts. This applicant believes that there is more than enough adequate capacity in those dual left turn lanes on 84th to permit a left turn pocket on 86th Street.

With regard to Barkley Drive, Katt advised that the layout of the lots has changed. The private drive has gone to the front of the lots. The applicant has proposed to construct a median in Barkley Drive, and build a very nice landscaped signature entry boulevard into the subdivision. Public Works objects to the median. Option 2 removes the front island and starts the island on the other side of the intersection. Both Option 1 and 2 contemplate 55' wide paving, which allows two movement lanes and exceeds the requirements. There would always be through traffic movement on the street. If the applicant is unable to build the median as proposed, and complies with the staff recommendation, it will be a collector street width of 39' without any median. Katt believes that the medians are a better solution to having through traffic in addition to providing the signature entry.

Marvin inquired about Outlots H and I and that the width on 84th Street seems to be 50' back from centerline instead of 60'. Katt stated that at this point in time, the applicant has no specific plans for these outlots. Ray Hill of Planning staff believes the developer is dedicating 10' up on the north, thus making it 60'. Lyle Loth of ESP concurred that they will dedicate an additional 10'. Loth also explained that the plan of the applicants for Outlots H and I is to landscape and build some berms to provide buffer from 84th Street to the units running out to 84th Street. He does not believe it would be a wood fence.

In regard to Condition #1.1.2, Katt clarified that the developer does not own the property they are accessing. They currently take access off 84th Street. The point is that we don't want to have to build another street to serve someone else's lot.

There was no testimony in opposition.

Staff questions

Taylor asked staff to respond to the proposed amendments. Ray Hill of Planning staff stated that staff is agreeable to the idea of working out the access later in Condition #1.1.2, but the staff is insisting that there would be a roadway leading to that property that they do not own

because of the access situation with the new alignment of Pine Lake Road and 84th Street. When they develop the multi-family area, they are required to provide some type of public access.

Ray Hill also suggested that if the applicant does not want to put in a pedestrian way easement (Condition #1.1.12), the staff would ask that they put in a street because there is need for access and the Comprehensive Plan talks about more connectivity between our neighborhoods. Hill thought the staff and applicant had agreed that the staff would not require a street if they provided the pedestrian easement.

Carroll inquired about coming off of 84th as far as the median. Chad Blahak of Public Works stated that the design standards allow intersection separations to be 120' from centerline to centerline; however, the standards do not differentiate between local, collector or arterial streets, so subsequently they can design a local street intersection 120' from the centerline of an arterial roadway, so they are relatively close together. As you come off of 84th Street from the south to get to the north section of 85th Street, there is the possibility that cars will be waiting to turn left and possibly block traffic onto the 84th Street sections. That was the reason for the Public Works request that the median be carried through to not interfere with 84th Street traffic.

Carroll then inquired about 84th to Barkley Drive where they talk about a median break to allow access to 85th Street. Blahak responded that the median break showed stacking for about one vehicle. With multiple units, the possibility exists that there will be multiple vehicles waiting to turn.

Carroll suggested that the third option as far as the standard design for the street would be 39' wide with no islands. Blahak believes that would most closely emulate the geometry across the street to the north.

Bills-Strand recalled that Public Works does not usually like islands in neighborhoods. Blahak agreed.

With regard to the amendment for the 86th Street connection to Pine Lake Road, the comment that Public Works made was to not show that as a left in, right out. The reason is that that section of Pine Lake Road is not even designed yet so it has not been determined what kind of access point would be allowed. Therefore, Public Works believes it to be in the best interests not to show a full access so that the residents don't get used to the fact of a full access before final design.

Response by the Applicant

Katt suggested that while this portion of Pine Lake Road might not have been designed yet, the 84th Street intersection has been designed and there are dual lefts. It seems to us to make sense that if it isn't designed, what a great opportunity to design it. They can only come out of their neighborhood and go into their neighborhood.

South 85th Court will only serve those four lots. This is not a through street. There are only 4 houses that will have turning movements on that road so the amount of traffic is quite small. There is a drainageway that has to be accommodated. In its current configuration the road satisfies all of the requirements the best. The applicant wants to establish an attractive, landscaped boulevard. The developer believes the proposed solution is not only the best traffic solution but also provides a nice entryway into the neighborhood.

Taylor inquired about the pedestrian easement. Katt believes that it would be very difficult to find a good location for a pedestrian easement. We have standards on cul-de-sac design length and we should be able to design a development that satisfies the design standards. If the Comprehensive Plan has changed and now we want to have free-flowing streets with no more cul-de-sacs, then we should change the design standards and not pick and choose which projects to which the standards apply or not apply. We think people should have the choice. They want the seclusion and the privacy and we should provide that opportunity. Generally, the people that live in these places don't like pedestrian easements. They are a problem and it adds \$25,000 to the cost.

CHANGE OF ZONE NO. 04017**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

June 9, 2004

Carlson moved approval, seconded by Marvin and carried 8-0: Sunderman, Carlson, Larson, Krieser, Taylor, Marvin, Carroll and Bills-Strand voting 'yes'; Pearson absent.

This is a recommendation to the City Council.

SPECIAL PERMIT NO. 04011**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

June 9, 2004

Main Motion: Carlson moved to approve the staff recommendation of conditional approval, with amendments by staff, seconded by Marvin.

With regard to Condition #1.1.14, Marvin believes that what the applicant has proposed with a 55' wide road is preferable to the 39' wide road.

Motion to Amend #1.

Marvin made a motion to amend to add the language to Condition #1.1.14 requested by the applicant, without Option 1 or 2. The applicant wants to allow left turns off of

Pine Lake Road. He does not believe the stacking issue is a big deal. Motion failed for lack of a second.

Motion to Amend #2.

Carlson moved to amend Condition #1.1.14 , as proposed by the applicant, including Option 1, seconded by Marvin.

Carlson stated that there is no break in the median without Option 1.

Carroll stated that if he was going to give a median on Barkley, he would consider a median east of 85th Street versus a cut in the island and then another island. It would make more sense to start the island after 85th Street. He believes that is Option 2. Option 1 has the island all the way along. He prefers Option 2 with no median until after 85th Street. Since Pine Lake Road is not designed yet, you are allowing something that might cause problems in the future by allowing an island cut now. If traffic warrants a left turn pocket, then they would design it through, but you are allowing something before the street is designed for the traffic it is going to carry.

Larson does not see why we shouldn't have the island between 84th and 85th on Barkley. It would be better to have the island there.

Bills-Strand suggested that it is just like Rolling Hills--you go in Rolling Hills Boulevard and she thinks it is a very attractive entryway into that neighborhood.

Motion to Amend #2 failed 4-4: Carlson, Taylor, Marvin and Bills-Strand voting 'yes'; Sunderman, Larson, Krieser and Carroll voting 'no'; Pearson absent.

Motion to Amend #3.

Carroll moved to amend Condition #1.1.14 to add language, "...except that a median in Barkley Drive shall be permitted east of 84th Street with a median opening for So. 85th Terrace and Court.", seconded by Sunderman.

Marvin believes that this is an attempt to reward a developer who is not going to put up a big fence on a main thoroughfare. It is important that we work with them to make it attractive and not be overly concerned about the cross traffic and about medians.

Motion to Amend #3 carried 8-0: Sunderman, Carlson, Larson, Krieser, Taylor, Marvin, Carroll and Bills-Strand voting 'yes'; Pearson absent.

Motion to Amend #4.

Carroll moved to amend Condition #1.1.2 as requested by the applicant, adding, "to the satisfaction of the Public Works & Utilities Department"., seconded by Marvin.

Motion to Amend #4 carried 8-0: Sunderman, Carlson, Larson, Krieser, Taylor, Marvin, Carroll and Bills-Strand voting 'yes'; Pearson absent.

Motion to Amend #5.

Larson moved to amend to delete Condition #1.1.6, seconded by Sunderman.

Carlson stated that he will vote against the motion from the standpoint of creating better connectivity.

Larson wants it deleted because a lot of people like cul-de-sacs just for that reason, and this would ruin it if we force them to put a street in there. In addition, it will cut out at least one lot, probably two.

Bills-Strand stated that in the real estate world, people do like cul-de-sacs and they like the peace and quiet that they provide. If what is shown meets design standards, she has trouble not allowing it.

Motion to Amend #5 carried 6-2: Sunderman, Larson, Krieser, Taylor, Carroll and Bills-Strand voting 'yes'; Carlson and Marvin voting 'no'; Pearson absent.

Motion to Amend #6.

Larson moved to amend to delete Condition #1.1.12, as requested by the applicant, seconded by Sunderman.

Carlson is opposed. He has been a strong champion for accommodating pedestrian motions. We have a park just off of this development. You are going to walk on it whether it is paved or not. You should give people access as they move that direction to go over to the park. It is the same argument as the cul-de-sac. If you buy a house next to a pedestrian way easement, you will know that people will be walking past your house.

Carroll believes that having a public easement and walkway is beneficial to the whole area.

Motion to Amend #6 failed 4-4: Sunderman, Larson, Krieser and Bills-Strand voting 'yes'; Carlson, Taylor, Marvin and Carroll voting 'no'; Pearson absent.

Main motion, as amended, carried 8-0: Sunderman, Carlson, Larson, Krieser, Taylor, Marvin, Carroll and Bills-Strand voting 'yes'; Pearson absent. This is a recommendation to the City Council.

PRELIMINARY PLAT NO. 04008

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

June 9, 2004

Carlson moved to approve the staff recommendation of conditional approval, including the staff amendments, and the amendments previously approved on Special Permit No. 04011, seconded by Larson and carried 8-0: Sunderman, Carlson, Larson, Krieser, Taylor, Marvin, Carroll and Bills-Strand voting 'yes'; Pearson absent.

This is final action, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

CHANGE OF ZONE NO. 04034

FROM AGR AGRICULTURAL RESIDENTIAL

TO R-3 RESIDENTIAL,

ON PROPERTY GENERALLY LOCATED

AT S. 66TH STREET AND HIGHWAY 2.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 9, 2004

Members present: Sunderman, Carlson, Larson, Krieser, Taylor, Marvin, Carroll and Bills-Strand; Pearson absent.

Staff recommendation: Approval.

Ex Parte Communications: None.

The Clerk announced that the applicant has submitted a request for a four-week continuance.

Marvin moved to defer for four weeks, with continued public hearing and administrative action scheduled for July 7, 2004, seconded by Carroll and carried 8-0: Sunderman, Carlson, Larson, Krieser, Taylor, Marvin, Carroll and Bills-Strand voting 'yes'; Pearson absent.

There was no public testimony.

CHANGE OF ZONE NO. 04027
FROM R-4 RESIDENTIAL TO
O-2 SUBURBAN OFFICE,
ON PROPERTY GENERALLY LOCATED
AT S. 48TH STREET AND PIONEERS BLVD.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 9, 2004

Members present: Sunderman, Carlson, Larson, Krieser, Taylor, Marvin, Carroll and Bills-Strand; Pearson absent.

Staff recommendation: Denial.

Ex Parte Communications: None.

The Clerk announced that the applicant has requested an additional four-week continuance.

Larson moved to defer, with continued public hearing and administrative action scheduled for July 7, 2004, seconded by Carlson and carried 8-0: Sunderman, Carlson, Larson, Krieser, Taylor, Marvin, Carroll and Bills-Strand voting 'yes'; Pearson absent.

There was no public testimony.

There being no further business, the meeting was adjourned at 3:00 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on June 23, 2004.